

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 LUIS ERNEST MORQUECHO,
15 Defendant.

Case No.: 11cr1495 AJB

**ORDER DENYING DEFENDANT'S
REQUEST FOR REDUCTION IN
SENTENCE UNDER THE
AMENDED SENTENCING
GUIDELINES**

16
17 The Defendant has moved for reduction of sentence under Amendment 782 of the
18 U.S. Sentencing Guidelines and pursuant to 18 U.S.C. § 358(c). Plaintiff has filed an
19 opposition, and no reply was filed.

20 At the time of the original sentencing of the case, Mr. Morquecho's sentencing
21 guidelines, based on an offense level 32, plus 1 level for the money laundering conviction
22 and an additional 4 levels for role, totaled 37. After a reduction of 3 levels for acceptance
23 of responsibility, an additional 2 levels were added for uncharged conduct, and an
24 adjusted offense level 36 resulted. At a criminal history level of III, defendant's guideline
25 range was 235 to 293 months. The Court then varied downward 4 levels under 18 U.S.C.
26 3553(a) citing, among other things, age, health, drug addiction and overrepresentation of
27 criminal history, and sentenced defendant to 180 months.
28

1 In the intervening period, the sentencing guidelines have been reduced such that a
2 recalculation at this time would result in the base offense lowering from 32 to 30, and
3 with adjustments and before any variance, an adjusted offense level 34. At criminal
4 history category III, a guideline sentence of 188 to 235 months results. The Defendant
5 moves for a reduction in his sentence to 180 months.

6 The Court has considered the request and have reviewed the file materials with
7 regard to the sentencing issues in this case. While Defendant qualifies for consideration
8 for a reduced sentence under Amendment 782 of the U.S. Sentencing Guideline and
9 pursuant to 18 U.S.C. § 3582(c), the Court denies Defendant's request for a reduced
10 sentence based on a consideration of all relevant factors in his case. The Court finds that
11 the 180 month sentence is sufficient but not greater than necessary in this case.

12 When the sentence was handed down, the Court considered the guidelines along
13 with 18 U.S.C. § 3553 factors in determining that the 180 months were sufficient but not
14 greater than necessary to achieve the purposes of the Federal Government in sentencing
15 these matters. In sentencing Defendant to 180 months, the Court varied down from the
16 low end guideline sentence of 188 months considering many mitigating factors which
17 are, in part, noted above. Even under the reduced guidelines, Defendant's sentence
18 remains below the adjusted guideline range.

19 As noted, in sentencing the Defendant, the Court varied down 4 levels. Because
20 these departures were not related to substantial assistance, under section 1B1.10 of the
21 guidelines, they do not carry over to the new amended guideline calculation. *See, United*
22 *States v. Davis*, 739 F.3d 1222, 1224 (9th Cir. 2014). As a result, the only question for
23 this Court is whether Defendant's original sentence – with the 3553(a) departures – was
24 lower than the new guideline range – without these departures. In this case it plainly was.

25 //

26 //

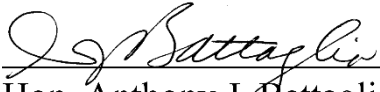
27 //

1 Therefore, under section 1B1.10(b), since defendant received a sentence lower than the
2 new guideline range, he is not entitled to any further reductions.

3 Therefore, Defendant's Motion for Reduction is denied.

4 IT IS SO ORDERED.

5 Dated: June 5, 2018

6 
7 Hon. Anthony J. Battaglia
8 United States District Judge
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28